

Planning Commission Meeting for New Castle City took place on June 28, 2010 at 6:30 p.m. in the City of New Castle's Town Hall.

Members Present: David Bird, Chair
Bill Simpson, Co-Chair
Joe DiAngelo
Dorsey Fiske
Vera Worthy
Dr. Jack Norsworthy*

Members Absent: Florence Smith

City Personnel: Mayor John F. Klingmeyer
City Inspector Jeff Bergstrom

City Planner: Marian Hull, URS
Ryan Mawhinney, URS

Mr. Bird called the meeting to order at 6:35 p.m. Roll call was taken.
*Dr. Norsworthy arrived at 6:38 p.m.

Approval of Minutes – A motion to approve the April minutes was presented by Ms. Fiske and seconded by Mr. DiAngelo. Motion passed and the April minutes were approved. A motion was made by Ms. Fiske to approve the May minutes. Ms. Worthy seconded the motion which was approved.

Riverbend Subdivision – This is a request from Mr. Capano, developer of the Riverbend Subdivision, to change the status of that development to eliminate its current 55 and older age-restricted community. This matter was referred to the Planning Commission by City Council for review and recommendation.

Mr. Adam Balick, an attorney with Balick and Balick, is presenting on behalf of Riverbend. He introduced Mr. William Wichess, engineer on the project, and Mr. Greg Lingo who is a builder with Cornell Homes.

Mr. Balick noted that this project was initially proposed to the City and Planning Commission as a 55 and over community and was approved as such. The community is in the process of being constructed and marketed. However, the economic environment has impacted sales and the developer is looking for ways to sell the properties. Mr. Capano has appeared before City Council and requested removal of the condition on the record plan from 55 and over to allow marketing to anyone wishing to buy in Riverbend.

Cornell Homes has expressed an interest in building in this community. Zoning is residential in the subject area. Mr. Balick is simply requesting a change to the restriction on the record plan.

Mr. Balick described in detail the impact on this community from a 55 and over community to an unrestricted community. (*Census data was circulated to Commission members.*) Ms. Hull clarified that one of the restrictions was that no person under 18 years of age would reside in the 55 and over community on a permanent basis. Mr. Balick indicated that there are no requests to change the number of units or the usage.

Mr. Bird asked if Mr. Balick could speak to the timing of Mr. Capano's purchase of the development since it was combined with a request for rezoning then a restriction of 55 and over. Mr. Balick noted that Parkway Gravel was the original owner but there was always an understanding that Mr. Capano would succeed Parkway.

Mr. Wichess added that at the point when the plans came forth that is when Mr. Capano succeeded Parkway who owned the ground.

Mr. Balick said there are currently eight (8) units built and of those eight (8) some will be owned by the same owner. Riverbend has gone to each of the buyers to inform of the potential change from a 55 and over community to an unrestricted community. We have signatures from eleven (11) owners/prospective owners acknowledging their approval. *(Eleven represents the number of current owners and prospective owners.)* A clubhouse has also been constructed. There are 210 total units planned for this community.

Dr. Norsworthy was on the Planning Commission when this community was first approved. Conditions were present pending zoning change from Industrial Park to R3. The City gave the R3 zoning change to fit the developer's request but could have been more stringent with the zoning change but did not because of the '55 and over' designation. He said this was a major concern of City residents. The City also gave up the right-of-way for the bypass. Mr. Bergstrom noted that the developer stated the project could not go forward with the truck traffic and the City changed the zoning. Dr. Norsworthy said that to get rid of the 55 and over restriction takes away a lot of the concessions the City made and inquired if the developer would consider returning the right-of-way back to the City. Mr. Balick would need to discuss with the developer before providing a response.

Mr. Balick said the concessions the City made were significant but the return was also going to be big. There will be a revenue stream created by this project. He added that the project is dying and in order for the project to be a return for the City they need to alter their plans. *(Additional discussion about R3 zoning and associated issues followed.)* Ms. Fiske expressed her interest in getting a bypass route around the City stating it would be beneficial for the City as well as people who buy homes in the area. Flooding is a key issue as well. Chairman Bird added that there was a provision in the Comprehensive Plan that created a bypass around the south end of the City to alleviate the traffic flow. There is still language in the Comprehensive Plan seeking a bypass south of the City. The request for a change in zoning to permit anyone wishing to purchase in Riverbend effects transportation concerns. Mr. Simpson stated the only City agency affected by the 55 and over community was the fire department because of the increase of medical services required versus a community with a younger population. Concerning the bypass issue, there are still issues with a resident and the railroad that would need to be resolved. *(Additional discussion took place.)*

Mr. Lingo, owner of Cornell Homes, presented to the Commission. He noted a similar size community that was converted from 55 and over to a market-rate community in Newark (DE). There will be no change in lot lines and we would work with the same footprints previously approved. He noted the additional revenue generated (building permits, etc.) and the 'life brought back to the community' as pluses for Newark.

Mr. Lingo addressed questions about the project in Newark (transportation, current residents, location near industrial area, price of units, traffic). Mr. Wichess said that Landmark

Engineering (hired by developer) did a traffic analysis based on commercial entity versus a 55 and over community in comparison to a standard single-family home.

Mr. Bergstrom said that in 2006 Landmark Engineering did a study on traffic from Industrial to Residential.

Mr. DiAngelo asked Mr. Lingo what the sizes of the streets are and where the sidewalks are located at the Newark project. The reason for his questions is the Riverbend project calls for smaller streets and sidewalks to be placed in the rear of the homes. School buses and children would be concerns at Riverbend. Blueprints have already been established for this project. Mr. Balick noted that the Riverbend street size is wider than standard street size. There is a trail system that allows people to move through part of the project. Mr. DiAngelo said there are issues that need to be addressed with a zoning request. He understands the economic situation and believes something should be done but these issues (water and sewer, infrastructure, etc.) will need to be addressed.

Ms. Hull was asked what issues/concerns she has with this zoning change. She stated she believes the issues brought up tonight by the Planning Commission are on target. Concerning the age restriction/special conditions, the zoning change is contingent on the special conditions. She referenced correspondence from former City Solicitor James Harker concerning this issue. Other issues include traffic generated (types of trips, number of trips), streets and sidewalks.

Mr. Simpson would like to see a traffic study addressing non-restricted housing. He would also like to see what changes will be made for a younger community such as playgrounds. What other impacts will the City encounter? The 55 and over community was going to be a self-contained community and be a gated community. Crime would be mostly limited to senior-related issues. Police will now be impacted in addition to the fire department.

Mr. Balick said there is open space that can be dedicated to a playground. He noted that he has been in discussion with City Solicitor Roger Akin who is in agreement with them that this is not a zoning issue but rather an issue of a recorded document that needs to be addressed. *(Ms. Hull will provide Mr. Balick with a copy of the letter from Mr. Harker.)*

Chairman Bird summarized the issues the Planning Commission would like to have additional information on to further study this request. An update to the Landmark traffic study looking at an unrestricted community versus a 55 and older community, feedback from the State concerning their plans for the area and how this project would impact their plans, what changes would be made to accommodate a non-restricted, younger population, what other services would be required of the City, time to review the census information provided by Mr. Balick, and the bypass issue and its status. Lastly, is this project a zoning issue or a restricted development issue; this would need to be clarified by the City Solicitor. *(Lengthy discussion about City services and emergency access points for the project followed.)*

Ms. Hull requested that the impact on the local school district and on-street parking be added to the list of issues to be addressed in more detail by the developer. *(Discussion about off-street parking available per unit versus on-street parking followed.)*

Dr. Norsworthy made a motion to table this issue until the July Planning Commission meeting pending responses from the Capano group regarding concerns expressed tonight and responses from Ms. Hull on same. Ms. Fiske seconded the motion.

A roll call vote was called.

Mr. DiAngelo – voted in favor of tabling this issue; there are many questions that need to be addressed before we make a recommendation.

Ms. Fiske – voted in favor of tabling this issue; there are a lot of questions to be looked at and it needs to be carefully examined before making a recommendation.

Mr. Simpson – voted in favor of tabling this issue because the impact has not been fully assessed.

Dr. Norsworthy – voted in favor of tabling for many of the above reasons cited and those reasons he expressed earlier in the discussion.

Ms. Worthy – voted in favor of tabling this issue until our questions are addressed.

Chairman Bird – voted in favor of tabling this issue for all of the reasons cited.

The motion to table this issue until the July Planning Commission Meeting was approved by unanimous vote.

Mayor Klingmeyer expressed his concern about the bypass and questioned the need for a gated community since they are now proposing a non-restricted community. Mr. Balick said the thinking is that the gate makes the community more marketable and provides a sense of security. He said all concerns would be taken back to the developer, including the bypass, and consider what the best options are to meet everyone's needs.

Mr. Balick noted that while they want to give Planning Commission members ample time to consider all of the information they will be providing, time is a consideration (debt load). He would like to be able to provide information to the City with a copy to Ms. Hull as responses are developed. Chairman Bird encouraged 'rolling' responses.

Mr. Balick stated they appreciate the professionalism of the Planning Commission. They understand the Commission's concerns and will address as many as possible.

Budget Review – Chairman Bird reported no budget information has been received from City Council to date. This matter will be addressed at our July meeting.

Proposed Zoning Ordinance Changes as Part of the Comprehensive Plan Implementation --

Mayor Klingmeyer spoke on behalf of Mr. Marinelli (resident) concerning non-conforming properties being eliminated. Mr. Bergstrom said Mr. Marinelli's buildings would be grandfathered in; however, his land would be non-conforming. Mr. Bergstrom also noted that non-conforming use of land is a good thing to eliminate if zoning is going to change.

(Discussion followed that included options for Mr. Marinelli.) It is understood that Mr. Marinelli will provide more information later. Ms. Hull said the City has strict rules on non-conforming properties. We are going to make major changes in uses in the South Street area where this property is located. More discussion is needed.

Ms. Hull then spoke to Commission members using a zoning map and summary memorandum. *(Copies distributed to Commission members.)* The summary of the differences in the memorandum was reviewed. It shows the consolidation of the two districts (referred to as Gateway districts), added the definition of 'height', added flexibility for sidewalk widths, added rear-yard setback requirements and screening requirements, parking standards, storage of outdoor furniture, and added a review criteria and approval conditions for special exceptions uses to guide the Board of Adjustment.

Discussion followed between Commission members and Ms. Hull concerning the zoning amendments. The topic of signage generated lengthy discussion.

Ms. Hull asked the Planning Commission for guidance concerning use of land issues; whether the Planning Commission wants to recommend more flexibility where non-conforming use of land is present. (*Lengthy discussion followed.*) Commission members do not feel strongly about having a deadline for non-conforming uses.

Mr. Simpson made a motion to recommend the changes discussed to City Council except as noted in our discussion tonight. Ms. Fiske seconded the motion.

A roll call vote was taken.

Mr. DiAngelo – voted in favor of recommending the changes discussed tonight. They are good changes and are necessary.

Ms. Fiske – voted in favor of recommending the changes. The changes are appropriate and improve the City.

Mr. Bird – voted in favor of recommending the changes to City Council. The input gathered to date with our working sessions along with the proposals brought forth have been well thought out and the examples of other communities trying to have redevelopment areas.

Mr. Simpson – voted in favor of recommending the changes; we will finally have the opportunity to be on the same page with everyone as to what needs to be done.

Dr. Norsworthy – voted in favor of recommending the changes. This is a long time in coming and he is happy we finally have a document to move forward with the changes.

Ms. Worthy – voted in favor of recommending the changes and moving forward.

The motion was approved by unanimous vote.

Mr. DiAngelo suggested we have an MSC (Municipal Services Commission) representative at our meetings when Riverbend is on the agenda. Chairman Bird was in agreement.

Mr. DiAngelo suggested having the City Solicitor attend if available. Dr. Norsworthy asked Mayor Klingmeyer if a representative of MSC is supposed to be on the Planning Commission. The Mayor indicated he normally appoints someone, although not required. The current member resigned and the other employee is not a member of MSC.

Commission Member Comments – No Commission members presented.

New Business -- Chairman Bird informed he attended a meeting of the National Recreation Area group concerning designating the Delaware River from Delaware City up to Trenton as a national recreation area. The National Park Service requires a review of the area as a first step to determine if the area qualifies for the program. He will provide the link for this group to Commission members.

Ms. Hull provided information on DelDOT's TRAC study. At a TRAC workshop there was discussion about incorporating some of these requirements into Gateway District requirements. She does not feel it is appropriate to go in this direction. She would like to have this item placed on a future Planning Commission agenda for further discussion.

Comments from the Public – William Boyle, 2nd Street, agreed with Mr. Balick's presentation on Riverbend that things have changed. Originally homes were to be priced much higher than was noted tonight. City services that will be provided have likely increased and any revenues the City would receive have declined. He also stated the only Superfund site in Delaware that has been completely cleaned up was at Army Creek. It was turned over to New Castle County. The County has not maintained the pumps installed by the federal government to pump water daily. He expressed concern with allowing children to live in the area under these conditions. He hopes these considerations are taken into account when making decisions for the area.

Chairman Bird stated that this body does have serious concerns about this project, its impact on the community by changing the type community, and to he wants to take into consideration the people who want to live there. He added he wants to see the transportation impact and possibly revisit some kind of concession of the bypass. Mr. Simpson also expressed concern with the development of residential areas south of New Castle. Improvements on Route 9 south of Dobbinsville to raise the roadway were to have been completed by 2009.

Next Meeting – The next meeting is scheduled for 7/26/10 at 6:30 p.m.

Adjournment – **A motion was made by Dr. Norsworthy to adjourn the meeting and seconded by Ms. Fiske. The meeting was adjourned at 8:35 p.m.**

Respectfully submitted,

Debbie Turner

Debbie Turner
Stenographer

(Note: Minutes transcribed from recording; stenographer not in attendance at meeting.)